

THE REVISED SCHOOL CODE (EXCERPT)

Act 451 of 1976

380.1230 Offer of employment as teacher, school administrator, substitute teacher, or position requiring state board approval; criminal history check; employment as conditional employee; conditions; voiding contract and terminating employment; report received by another district; consent; request; conducting criminal history check; report; use; disclosure; violation as misdemeanor; penalty; definitions. [M.S.A. 15.41230]

Sec. 1230. (1) Beginning with hiring for the 1993-94 school year and subject to subsections (2), (4), and (5), upon an offer of initial employment being made by the board of a school district, local act school district, or intermediate school district or the governing body of a public school academy or nonpublic school to an individual for a position as a teacher or a school administrator or for a position requiring state board approval, the district, public school academy, or nonpublic school shall request from the criminal records division of the department of state police a criminal history check on the individual and, before employing the individual as a regular employee, shall have received from the department of state police the report described in subsection (8).

(2) If the board of a school district, local act school district, or intermediate school district or the governing body of a public school academy or nonpublic school determines it necessary to employ an individual for a position described in subsection (1) for a particular school year during that school year or within 30 days before the beginning of that school year, the board or governing body may employ the individual as a conditional employee under this subsection without first receiving the report described in subsection (8) if all of the following apply:

(a) The board or governing body requests the criminal history check required under subsection (1) before conditionally employing the individual.

(b) The individual signs a statement that identifies all crimes for which he or she has been convicted, if any, and agreeing that, if the report described in subsection (8) is not the same as the individual's statement, his or her employment contract will be voidable at the option of the board or governing body. Not later than July 28, 1993, the department shall develop and distribute to districts and nonpublic schools a model form for the statement required under this subdivision. The department shall make the model form available to public school academies. A district, public school academy, or nonpublic school shall use the model form for the purposes of this subsection.

(3) If an individual is employed as a conditional employee under subsection (2) and the report described in subsection (8) is not the same as the individual's statement under subsection (2), the board or governing body may void the individual's employment contract. If an employment contract is voided under this subsection, the individual's employment is terminated, a collective bargaining agreement that would otherwise apply to the individual's employment does not apply to the termination, and the district, public school academy, or nonpublic school or the board or governing body is not liable for the termination.

(4) For an applicant for a position as a substitute teacher, instead of requesting a criminal history check under subsection (1), a school district, local act school district, intermediate school district, public school academy, or nonpublic school may use a report received by another district, public school academy, or nonpublic school or maintained by the department to confirm that the individual does not have any criminal history. If that confirmation is not available, subsection (1) applies to an applicant for a position as a substitute teacher.

(5) If an applicant for a position described in subsection (1) is being considered for employment in such a position by more than 1 school district, local act school district, intermediate school district, public school academy, or nonpublic school and if the applicant agrees in writing to allow a district, public school academy, or nonpublic school to share the report described in subsection (8) with another district, public school academy, or nonpublic school, a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the report described in subsection (8)

from another district, public school academy, or nonpublic school.

(6) An applicant for a position described in subsection (1) shall give written consent at the time of application for the criminal records division of the department of state police to conduct the criminal history check required under this section.

(7) A school district, local act school district, intermediate school district, public school academy, or nonpublic school shall make a request to the criminal records division of the department of state police for a criminal history check required under this section on a form and in a manner prescribed by the criminal records division of the department of state police.

(8) Within 30 days after receiving a proper request by a school district, local act school district, intermediate school district, public school academy, or nonpublic school for a criminal history check on an applicant under this section, the criminal records division of the department of state police shall conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the district, public school academy, or nonpublic school. The report shall contain any criminal history record information on the applicant maintained by the criminal records division of the department of state police.

(9) Criminal history record information received from the criminal records division of the department of state police under subsection (8) shall be used by a school district, local act school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an applicant's qualifications for employment in the position for which he or she has applied and for the purposes of subsection (3). A member of the board of a district or of the governing body of a public school academy or nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose the report or its contents except any felony conviction or a misdemeanor conviction involving sexual or physical abuse to any person who is not directly involved in evaluating the applicant's qualifications for employment. However, for the purposes of subsection (4), a person described in this subsection may confirm to an employee of another district, public school academy, or nonpublic school that a report under subsection (8) has revealed that an individual does not have any criminal history or may disclose that no report under subsection (8) has been received concerning the individual, and for the purposes of subsection (5), a person described in this subsection may provide a copy of the report under subsection (8) concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, but is not subject to the penalties under section 1804.

(10) As used in this section:

(a) "Criminal history record information" means that term as defined in section 1a of Act No. 289 of the Public Acts of 1925, being section 28.241a of the Michigan Compiled Laws.

(b) "State board approval" means that term as defined in section 1539b.

History: Add. 1992, Act 99, Imd. Eff. June 23, 1992;—Am. 1993, Act 68, Imd. Eff. June 21, 1993;—Am. 1993, Act 284, Eff. Apr. 1, 1994.
Popular name: Act 451

THE REVISED SCHOOL CODE (EXCERPT)

Act 451 of 1976

380.1230a Criminal records check through federal bureau of investigation; employment as conditional employee; voiding contract and terminating employment; application as substitute teacher; obtaining copy of results from another district, public school academy, or nonpublic school; consent; form and manner of request; use and disclosure of results; violation as misdemeanor; penalty; initiation of criminal records check by department of state police; "state board approval" defined. [M.S.A. 15.41230a]

Sec. 1230a. (1) In addition to the criminal history check required under section 1230, the board of a school district, local act school district, or intermediate school district or the governing body of a public school academy or nonpublic school shall request the department of state police to conduct a criminal records check through the federal bureau of investigation on an applicant for, or an individual who is hired for, a position as a teacher or a school administrator or a position requiring state board approval. Except as provided in subsection (2), a board or governing body shall not employ an individual in a position described in this subsection until after the board or governing body receives the results of the criminal records check. A board or governing body requesting a criminal records check under this section shall require the applicant or individual to submit his or her fingerprints to the department of state police for that purpose. The department of state police may charge a fee for conducting the criminal records check. A board or governing body shall require an individual to submit his or her fingerprints for the purposes of this section only at the time the individual initially applies for employment with the board or governing body or is initially employed by the board or governing body.

(2) If the board of a school district, local act school district, or intermediate school district or the governing body of a public school academy or nonpublic school determines it necessary to employ an individual for a position described in subsection (1) for a particular school year during that school year or within 30 days before the beginning of that school year, the board or governing body may employ the individual as a conditional employee under this subsection without first receiving the results of the criminal records check under subsection (1) if all of the following apply:

(a) The board or governing body requests the criminal records check under subsection (1) before conditionally employing the individual.

(b) The individual signs a statement that identifies all crimes for which he or she has been convicted, if any, and agreeing that, if the results of the criminal records check under subsection (1) reveal information that is inconsistent with the individual's statement, his or her employment contract will be voidable at the option of the board or governing body. Not later than September 30, 1995, the department shall develop and distribute to districts and nonpublic schools a model form for the statement required under this subdivision. The department shall make the model form available to public school academies. A district, public school academy, or nonpublic school shall use the model form for the purposes of this subsection.

(3) If an individual is employed as a conditional employee under subsection (2) and the results of the criminal records check under subsection (1) reveal information that is inconsistent with the individual's statement under subsection (2), the board or governing body may void the individual's employment contract. If an employment contract is voided under this subsection, the individual's employment is terminated, a collective bargaining agreement that would otherwise apply to the individual's employment does not apply to the termination, and the district, public school academy, or nonpublic school or the board or governing body is not liable for the termination.

(4) For an applicant for a position as a substitute teacher, instead of requesting a criminal records check under subsection (1), a school district, local act school district, intermediate school district, public school academy, or nonpublic school may use results received by another district, public school academy, or nonpublic school or maintained by the department to confirm that the individual does not have any criminal history. If that confirmation is not available, subsection (1) applies to an applicant for a

position as a substitute teacher.

(5) If an applicant for a position described in subsection (1) is being considered for employment in such a position by more than 1 school district, local act school district, intermediate school district, public school academy, or nonpublic school and if the applicant agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal records check with another district, public school academy, or nonpublic school, then a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the results of the criminal records check from another district, public school academy, or nonpublic school.

(6) An applicant for a position described in subsection (1) shall give written consent at the time of application for the criminal records division of the department of state police to conduct the criminal records check required under this section.

(7) A school district, local act school district, intermediate school district, public school academy, or nonpublic school shall make a request to the department of state police for a criminal records check under this section on a form and in a manner prescribed by the department of state police.

(8) The results of a criminal records check under this section shall be used by a school district, local act school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an individual's qualifications for employment in the position for which he or she has applied and for the purposes of subsections (3), (4), and (5). A member of the board of a district or of the governing body of a public school academy or nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose those results, except any felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person who is not directly involved in evaluating the individual's qualifications for employment. However, for the purposes of subsections (4) and (5), a person described in this subsection may provide a copy of the results under subsection (1) concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, but is not subject to the penalties under section 1804.

(9) Within 30 days after receiving a proper request by a school district, local act school district, intermediate school district, public school academy, or nonpublic school for a criminal records check on an individual under this section, the criminal records division of the department of state police shall initiate the criminal records check. After conducting the criminal records check for a school district, local act school district, intermediate school district, or public school academy, the criminal records division of the department of state police shall provide the results of the criminal records check to the district or public school academy. After conducting the criminal records check for a nonpublic school, the criminal records division of the department of state police shall notify the nonpublic school of whether or not the criminal records check disclosed any criminal history that is not disclosed in the report on the individual provided to the nonpublic school under section 1230.

(10) As used in this section, "state board approval" means that term as defined in section 1539b.

History: Add. 1995, Act 83, Eff. Aug. 1, 1995.

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